IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.481 OF 2007

Shri Bhagwan Kashinath Gangurde ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri M.S.Sonawane, adv. for the Applicant.
Shri G.S.Shinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 5th March, 2007.

P.C.:

1. Heard Mr.Sonawane, the learned counsel for the applicant and Mr.Shinde, the learned APP for the State. Perused the police papers.

2. The applicant, who is accused no.3, seeks to be released on bail in crime no.11 of 2006 registered at Mokhada police station district Thane for the offence punishable under Section 302 read with Section 34 of the I.P.C.

3. Prosecution case in brief, is that the deceased Mohan B. Patil was the Sarpanch of the village Adoshi-Shirashgaon, Taluka Mokhada. The present applicant was a contractor and was carrying on some construction work. On 8-5-2006 an engineer of the Zilla Parishad was to pay visit to verify the works.

Therefore, on that day, in the morning, the present applicant had been to the house of Mohan Patil requesting him to help him. However, Mohan Patil told him that he was not carrying out work properly and he was claiming to have done more work than he had actually done. Because of this the present applicant was aggrieved. However, Mohan Patil agreed to go to the spot alongwith the present applicant on his motorcycle. On the way, accused no.1 Vilas Dive had exchange of hot words with Mohan Patil on the ground that he was not getting certificate about his residence in the village. After inspection of the work, the present applicant, Mohan Patil and one Krishna Kharpade were returning on the same motorcycle. On the way Vilas Dive asked them to stop as he wanted to speak to Mohan Patil. Motorcycle was stopped and thereafter Vilas abused and assaulted him. According to the prosecution, Krishna Kharpade had caught hold of both the hands of Mohan Patil from behind and Vilas Dive assaulted him with a sharp and pointed weapon while the present applicant was instigating him to kill and finish Mohan Patil. After suffering the bleeding injury on the abdomen, Mohan Patil collapsed and thereafter, Krishna Kharpade and Vilas Dive went away. The present applicant also went away by the motorcycle. It appears that the present applicant himself went to the police station and lodged

a report of the incident on the same day wherein he alleges that Vilas Dive had assaulted Mohan Patil with a sharp and pointed weapon. Role of Krishna Kharpade and the present applicant was revealed, when the statements of two eye witnesses namely, Chandrabhaga Patil and Sundarabai Patil was recorded on 11-5-2006. Taking into consideration the circumstances of the incident, it appears that even though Vilas Dive was the actual assailant, the present applicant, who was a contractor had instigated him and while instigating, the applicant was present on the spot and in his presence, Mohan Patil was assaulted and killed. His conduct in running away on the motorcycle in stead of providing any help to the deceased goes against him.

4. Charge-sheet was filed long back. Charge is also framed by the Sessions Court and the case is due for trial. Possibility of tampering with the prosecution evidence can not be ruled out if he is released at this stage. Therefore, it will not be advisable to grant bail to the present applicant at this stage.

5. Application stands rejected.

6. The trial Court shall expedite the trial and

dispose off the case as early as possible.

(J.H.Bhatia,J.)